

DECISION NOTICE
AND
FINDING OF NO SIGNIFICANT IMPACT

***Basin Electric Cooperative
230 kV Transmission Line
Right-of-Way***

On National Forest System lands in:

T.41N.R.71W., Section 3
and
T.41N.R.73W., Section 1

Douglas Ranger District
Medicine Bow-Routt National Forests and
Thunder Basin National Grassland
Campbell County, Wyoming

October, 2003

Introduction and Background

This Decision Notice (DN) documents my decision regarding that portion of Basin Electric Cooperative's (Basin Electric) proposed Teckla to Carr Draw 230 kV Transmission Line Project that will be located on National Forest System land. An Environmental Assessment (EA) was prepared and has been made available to the public for review and comment. The EA discloses the environmental effects of the proposal that would occur on and near National Forest System lands west of the Teckla substation, and on and near other lands along the proposed 71-mile corridor right-of-way of the project. Two (2) alternatives to the proposed action was considered in detail. Five (5) other alternatives were considered but eliminated from detailed study for reasons described elsewhere in this decision document.

The transmission line was proposed by Basin Electric Cooperative to originate at Powder River Energy Corporation's existing Teckla substation in section 3, T.41N.R.71W., southeast of Wright, Wyoming, and to proceed in a west and north direction to the existing Hartzog substation and combustion turbine electric power generating facility (CT) site in sections 19 and 20, T.44N.R.74W., and then to proceed north to connect with the existing Barber Creek substation and CT site in section 33, T.49N.R.75W., and then proceeding north to, and terminating at, the Carr Draw substation in section 8, T.50N., R.75W.

An interdisciplinary team of natural resource management specialists and a third party contractor conducted the analysis of the possible environmental effects of the project, and documented the results in an EA. In accordance with the National Forest Management Act and the National Environmental Policy Act, the team considered the affected area, scoped with the public to identify issues and concerns, formulated alternatives that responded to the issues raised by the public, determined the likely environmental consequences based on Thunder Basin National Grassland Land and Resource Management Plan (Grassland Plan) management goals and objectives, and management area direction and standards and guidelines, and proposed mitigation measures and project monitoring activities in response to these potential effects.

Due to the requirement 40 CFR, Part 1508.7 to consider the cumulative impacts from reasonably foreseeable future actions regardless of what agency (Federal or non-federal) or persons undertakes such other actions, the analysis includes potential impacts from activities on other land ownerships along the total 71 mile transmission line route. To determine if a "finding of no significant impact" can be made for the portion of the project on lands other than National Forest System lands, the environmental effects analysis process took a hard look at possible significant beneficial effects and adverse impacts along the entire route.

The Forest Service has no jurisdiction over deeded lands, and has no decision to make regarding those deeded lands or lands administered by other agencies along the proposed project route. This Forest Service decision does not preclude any other federal, state, or private landowners elsewhere along the route of the power line from denying right-of-way, or further negotiating the final alignment of the power line right-of- way across their private land.

The Decision

I have reviewed the July, 2003 Environmental Assessment (EA) and the project process file for Basin Electric's proposed Teckla to Carr Draw 230 kV transmission line, and I have decided to implement Alternative 2, the Proposed Action as the action I will permit. Basin Electric Cooperative will be permitted to construct, operate and maintain a 230 kV transmission line on the subject National Forest System lands. My decision includes that:

1. I authorize the use of a 125-foot wide right-of-way approximately 4,450 feet in length on National Forest System (NFS) land in section 3, T.41N., R.71W. connecting to the Teckla Substation, and approximately 130 feet across an isolated 40-acre parcel of NFS land in section 1, T.41N.R.73W., for a permitted electric power transmission line right-of-way. These area locations are displayed on the project analysis area map that is a part of this decision document.
2. I require that the proponent create a raptor nest site suitable for use by Swainson's and Ferruginous hawks as specified in detail in the Mitigation Measures section of the project Biological Assessment/Biological Evaluation (BABE).
3. Basin Electric will be required to control any invasive weeds that become established on NFS land due to their project.
4. Basin Electric Cooperative will comply with and implement, as appropriate, all mitigation measures and monitoring requirements included below.
5. No road construction and no use of National Forest System lands for a construction staging areas may occur.

Required Environmental Effects Mitigation Measures and Monitoring

The following mitigation measures and associated monitoring are integral components of this decision. All mitigation measures listed below will be included in the right-of-way grant document as a clause or be implemented by their inclusion in an operating plan which is an exhibit to the granting document.

Effects Mitigation -

Vegative Resources

Basin Electric will submit a plan for the control of invasive weeds to the District Ranger, Douglas RD for approval. The company will implement the Forest Service approved plan.

Wildlife Resources

Basin Electric will create and place a raptor nest platform in the NW ¼ of section 3 in T.41N.R.71W. that will be suitable for use by Swainson's and Ferruginous hawks during their nesting season(s). The proponent will construct and install a nest platform in accordance with specifications approved by the US Forest Service. Once installed to standards, maintenance of the nest platform will be the responsibility of the United States.

Cultural Resources

On NFS land, in the event that cultural deposits are uncovered and identified during project construction, construction shall be halted and a Forest Service or FS-approved archaeologist will evaluate the site, including site excavation as needed, for the purpose of gathering available significant information before the project may proceed in that area.

Paleontological Resources

On NFS land, in the event that paleontological (fossil) resources deposits are uncovered and identified during project construction, construction shall be halted and a FS or FS-approved paleontologist will evaluate the site, including site excavation as needed, for the purpose of gathering available significant information before the project may proceed in that area.

Land Uses and Transportation

Off-road travel during time of wet soil conditions when rutting and compaction of the soil would occur is prohibited.

So that livestock will not leave pastures as a result of transmission line construction activities, the integrity and full usefulness of all fences crossed will be maintained. Six-inch top wooden "H" braces will be installed on both sides of any fence openings made. Fence line wires will be attached to these braces before any wires are cut so as to maintain fence tension. The "H" braces will be left in place.

Effects Monitoring -

Vegetation

Annually for the first three years after project completion, Basin Electric will inspect for the presence of invasive weeds along the total 4,580 feet of right-of-way across NFS land. The company will furnish the District Ranger, Douglas RD a report of the results and findings of each inspection, and will provide such report to the District Ranger, Douglas Ranger District within 30 days of the completion of each annual inspection. If at the end of three years, no invasive weeds attributed to the project are found monitoring may cease. If invasive weeds whose establishment may be attributed to the project are found during the first three years after project completion, monitoring will continue until such time as none have been found for three consecutive years.

At the end of the useful life of the transmission line, the area will be reclaimed to a condition comparable to the undisturbed adjacent National Forest System land. The proponent will submit a plan for removing the facilities and reclamation to the District Ranger prior to those actions occurring, and the ranger must approve the plan before it is implemented.

The Purpose and Need for the Action

Purpose:

The purpose of this project is to meet future growth and the increased demand for electrical power, and improve system reliability and continuity of service in the western Powder River Basin area now and in the years ahead, to improve the power grid stability, to maintain adequate system voltage levels and keep the local power transmission system technically "up to date," and to keep the local power transmission system in the western basin in compliance with current industry standards.

Need:

A portion of the load growth in northeastern Wyoming is associated with energy sales to commercial customers. The power required by these customers is growing, particular for coal production facilities and developers of CBM production wells. The latest load forecast projects an increased of 1,817,133-megawatt hours in annual requirements from 2000 through 2016, an average annual increase of 4.98 percent. In the short term, an average annual increase of 18.9 percent is projected for the years 2000 to 2005. Significant load growth is also being realized in Black Hills Service territory in northeastern Wyoming. To maintain the reliability of the electrical delivery system throughout northeastern Wyoming and to accommodate the projected load growth, additional transmission support in the region is essential.

Performance needs include not only accommodation of future growth, but also enhancement of overall system reliability in northeastern Wyoming. The local utility provider has built a 69 kV system to deliver power to its distribution substations. This kV system is not, however adequate to serve the projected power demands and resulting load to the area west of Gillette. The local utility provider is already hard-pressed to maintain voltage in the western edge of the existing 69 kV systems. As a result, a 230 kV source is needed in this western region of the system.

Reasons for the Decision

My decision is based, in large part, on the issues and alternatives identified and analyzed as documented in the EA, and the likely beneficial effects of implementing of this project on National Forest Service lands in the area near the Teckla substation.

My decision will provide for the development of the Teckla to Carr Draw 230 kV transmission line and the beneficial effects that the project will have without resulting in significant unacceptable adverse environmental impacts to humans or the natural resources and environment that occurs on National Forest System land where the power line right-of-way will be permitted.

Alternative 2, the proposed and decided action best responds to the public issues raised and described in Chapter 1 of the EA (section 1.7), while meeting the intents, purpose(s) and need for the project.

It has also been shown to be consistent and in full compliance with the Grassland Plan management direction for Management Area 6.1 - Rangeland with Broad Resource Emphasis, applicable in section 1, T.41N.R.73W., and 8.4 Mineral Production and Development in section 3, T.41N.R.71W., and other applicable laws, regulations and policies.

Alternative 2 provides for protection of the potentially affected National Forest System resources before, during and after the planned construction, operation, and reclamation activities associated with the electric transmission line project.

The effects on the quality of the human environment are primarily of local concern and, with the implementation of the mitigation measure(s) included above, and other standard permit stipulations and submission and compliance with an operating plan that will be required, any adverse impacts that could occur as a result of this action will be insignificant and of relatively short duration.

The effects will not adversely impact public safety and do not involve any unique or unknown risks.

The Wildlife Biologist has determined that the potential adverse impacts to endangered, threatened, sensitive and rare plant and animal species or their habitats will not be significant and can be mitigated. (Biological Assessment/Biological Evaluation, August, 2003, as Certified for the Government by Forest Service wildlife biologist Tim Byer on September 9, 2003)

There are no known significant adverse impacts that could occur to any cultural, or historical resources. A Class III cultural resource inventory was used to make the determination, "that no historic properties will be affected."

There are no known significant adverse impacts that could occur to any paleontological resources. An on the ground inventory by an approved paleontological consultant was used to make the determination that no paleontological properties will be affected.

The Scenic Integrity Objective (SIO) for the project area on National Forest System lands is "low". The effect of the project on scenery management and attaining scenery objective will be negligible.

The effects on the soil, vegetation resources and watersheds will be minimal and can be mitigated.

The project will not result in a violation of any Federal, State or local law or requirements imposed for the protection of the environment.

After reviewing the EA, the public comments received throughout the analysis process, and the project analysis file, I have determined that this electric transmission project serves the public interest. The resource values present in the National Forest System lands of project area will be preserved and protected. The proposed facilities on National Forest System lands will be congruent with the Grassland Plan management objectives for the Hilight Bill Geographic Area and management emphasis areas 6.1 and 8.4. The proposed facilities will not significantly limit the management of public natural resources on National Forest System land.

Scoping and Public Involvement

The proposed project has been listed in the Medicine Bow-Routt National Forests and Thunder Basin National Grassland Quarterly Schedule of Proposed Action report (SOPA) beginning in CY2002.

A public scoping statement describing the Proposed Action was mailed to 43 organizations, agencies and individuals identified as parties potentially interested in similar activities on the Thunder Basin National Grassland, and to parties that could be affected by the proposal, including landowners adjacent to the National Forest System land involved, tribal governments, the Campbell County Commissioners, the State of Wyoming Office of Federal Land Policy, and the Wyoming Congressional Delegation on April 15, 2002 and was published in the Casper Star Tribune on April 21, 2002.

Consultation with the U.S. Fish and Wildlife Service, Department of Energy and Wyoming State Historic Preservation Officer has occurred in compliance with various laws, regulations and agreements, and agency policy.

Five (5) comment letters were received as a result of that public scoping effort.

The respondents included: the State of Wyoming – Office of Federal Land Policy, the Wyoming Office of State Lands and Investments, the Wyoming State Historical Preservation Officer, the Wyoming Game and Fish Department, and Wendell Funk of Palmyra, Illinois.

Using the comments received from the public and other agencies, the interdisciplinary team developed a list of issues and concerns to address during the environmental effects analysis.

The Forest Service ID team separated the issues into four categories, including: 1) those issues or concerns that would drive the consideration of an alternative action to that proposed, 2) those considered, analyzed, disclosed and described in Chapter 4 - Environmental Consequences in the EA, 3) those already decided by law, regulation, in the Forest Plan, or other higher level decision, and 4) those that were deemed to be insignificant and/or outside the scope of the site-specific action(s) proposed.

On July 11, 2003, an Environmental Assessment (EA) was released for public review and comment. A public (legal) notice of the availability to this document was published in the *Laramie Boomerang* daily newspaper on July 15, 2003.

Nine individuals and one Federal provided written comments about the EA. A list of those who provided comments, and the Forest Service response to those issues comments is contained in Appendix G in the EA.

Alternatives Considered in Detail

Alternative 1, the “No Action” alternative was also considered and evaluated. Analysis of a No Action Alternative in a NEPA document is required by CEQ regulation.

The No Action alternative would forego construction of a 230kV transmission line. The electrical grid system for Campbell County would not be improved. Adverse social and environmental impacts from lack of reliable electric power would occur.

Alternate electric power supplies would be required. This would include installation of strategically placed electricity generators for coal bed natural gas wells. Adverse environmental impacts would primarily come from use of electric generators. This would result in increased air emissions, increased vehicle traffic to operate the generators, larger vegetation areas disturbed for generator sites, increased potential for fuel spill, etc. The social impacts would come from the lack of a reliable grid and slowed economic growth.

Alternative 1 was not selected because it does not meet the purpose or need for the project. Basin Electric would be denied a ROW out of the Teckla Substation and an opportunity to upgrade and increase the reliability of the electrical system power grid in the western Powder River Basin.

Alternative 2, the “Proposed Action” was considered and evaluated. This is the selected alternative and the decided action as described herein. This alternative is consistent and in full compliance with Grassland Plan management direction for Management Area 6.1 Rangeland with Broad Resource Emphasis applicable in T.41N.R.73W., section 1 and with 8.4 Mineral Production and Development applicable in T.41N.R.71W., section 3, and other applicable laws, regulations and policies. It is fully responsive to the project purpose and need. It provides for protection of vegetation and wildlife resources while allowing for upgrading the electric power system grid in the western Powder River Basin. This alternative involves the least amount of land and the fewest miles of power line ROW, and is determined to be the action alternative of least cost.

Alternative 3 - Avoiding Former Nest Location has been shown to be consistent and in full compliance with Grassland Plan management direction for Management Area 6.1 Rangeland with Broad Resource Emphasis in T.41N., R.73W., section 1 and with 8.4 Mineral Production and Development in T.41N., R.71W., Section 3 and other applicable laws, regulations and

policies. It is fully responsive to the project purpose and need. It provides for protection of the vegetation and wildlife resources while allowing for up grading the electrical grid system. Alternative 3 is consistent and in full compliance with Grassland Land Plan management direction for Management Area 6.1 Rangeland with Broad Resource Emphasis, T.41N.R.73W., section 1 and 8.4 Mineral Production and Development T.41N.R.71W., section 3 and other applicable laws, regulations and policies. It was not selected because it involves added miles of construction and increased costs when compared with the proposed action. Additionally, it would not result in creation of a nest site suitable for Swainson's and Ferruginous hawks to replace the one that was destroyed by parties unknown on adjacent State School Trust Land.

Other Alternatives Considered, but Eliminated from Detailed Study

Five (5) alternatives to the proposed action were considered but eliminated from further study and consideration. These alternatives are discussed in section 2.2 of the EA. These alternatives are:

Alternative 4 – Teckla to Hartzog Diagonal; while the shortest route in miles, it would cross rough terrain, impacted more Federal land, had a high level of landowner opposition, and crossed several dry lake beds unsuitable for the installation of poles.

Alternative 5 – North from Teckla along Wyoming State Highway 59, then west to Hartzog; approximately four (4) miles longer than the proposed action, impacted more Federal lands, had a high level of landowner objections, conflicts with current land / livestock operation, and would require an alignment around a number of "ranchette" developments south of the town of Wright, Wyoming. Construction would adversely impact more occupied dwellings and would require more angles in the transmission line and cross SH-59 twice instead of just once as does the proposed and decided action.

Alternative 6 – North from Teckla along the Burlington Northern Santa Fe (BNSF) Railroad tracks, then west to Hartzog, a route that is approximately five (5) miles longer than the proposed/decided action. It would impact more Federal land, there was a mix of both landowner objection and landowner support for this alternative. It would require more turns and angles than the proposed action and would adversely impact more occupied dwellings.

Alternative 6 would parallel an existing electric transmission line more than the proposed alternative. There is an increased grid reliability risk involved with parallel transmission lines, i.e., one event (tornado, etc.) is more likely to damage both lines when they are adjacent and parallel.

Alternative 7 – South from Teckla to Hartzog. This alternative would cross land currently under coal lease, would impact known mountain plover habitat, increase the length of transmission line ROW when compared with the proposed/decided action, would impact more Federal land, and had numerous landowner objections raised.

Alternative 8 – Avoiding BLM Land. Avoiding the Federal land in section 5, T.49N.R.75W. that is administered by the USDI – Bureau of Land Management would require routing the line across a dissected draw, rough with side chanel. Crossing this draw was deemed impractical and unrealistic from a power line construction standpoint and perspective, and would necessitate an increase the length of the span between poles across the draw creating potential line safety, and physical integrity and stability issues.

Finding of No Significant Impact (FONSI)

I have considered both the potential beneficial effects and adverse impacts of implementing Alternative 2, the Proposed Action. Based on my experience with other electric power transmission line projects on the Thunder Basin National Grassland and in the Powder River Basin and the results of the site-specific environmental effects analysis documented in the EA, and after a review of the EA and the project analysis file, I have determined that the effect(s) of implementing this alternative will be limited in scope and intensity. I have concluded that the decided action is not a major Federal action that would significantly effect the quality of the human environment. Any effects that may occur will be within an acceptable range, and will, in and of themselves, or by using the appropriate mitigation measures described elsewhere in this decision document, result in no significant adverse environmental impact(s), either individually or cumulatively, to the physical or biological components of the environment, as defined in 40 CFR 1508.27. Therefore, an environmental impact statement will not be prepared.

My findings are based on my determination that:

1. Both beneficial and adverse effects have been considered, and this action will not have a significant adverse impact on the quality of the human environment. The *context* of this project is regional and local to the Powder River Basin and the Thunder Basin National Grassland in Campbell and Converse counties, Wyoming.
2. I have concluded that public health and safety will not be adversely affected.
3. This project area does not involve any characteristics or circumstances in the geographic area that are unique, such as proximity to heritage resources, park lands, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas.
4. This electric transmission line development project is similar to other electric transmission line projects that have occurred on the Thunder Basin National Grassland. While transmission line projects are often controversial with some public and owners of private land that would be crossed, there are no scientific disputes among Forest Service professional, trained resource management specialists over the likely effects of this project on the quality of the physical, biological and human environments. Therefore, I have concluded that Alternative 2, the Proposed Action, is the environmentally preferable alternative course of action. (EA pages 28-132)

5. This action does not involve any *unique* or *unknown risks* to the human environment. It is similar to past actions that have occurred on the Thunder Basin National Grassland. The probable effects and risks are well understood. (EA pages 28-132)
6. Neither the actions planned, nor this decision, establish a precedent for future actions with significant effects. I have concluded that they do not represent a decision in principle about any future action as every proposed transmission line development project must be considered and evaluated on its individual merits. The Forest Service decision does not preclude any other federal, state, or private landowners elsewhere along the route of the power line from granting or denying a right-of-way to the proponent, or further negotiating the final alignment of the power line right-of-way across their public or private land.
7. There are no known significant local cumulative effects between this project and other projects implemented or planned on areas separated from the affected area of this project. This action, as related to past, other present and foreseeable future actions addressed in the Cumulative Effects section of the EA, will not individually or cumulatively result in significant adverse impacts to the human or biological environment. (EA pages 28-134)
8. The action will not adversely affect any historic sites now listed or eligible for listing on the National Register of Historic Places, nor will it cause the loss or destruction of any other significant scientific, cultural, heritage, historic, or prehistoric or paleontological resource. This finding is based upon the results of site-specific cultural and paleontological resource surveys conducted in project area as part of the project Plan of Development, and consultation with the Wyoming State Historic Preservation Officer.
9. This action will not adversely affect any listed or proposed endangered or threatened species or their habitat, or sensitive plant or animal species, critical habitats, or unique natural communities. (EA page 52-67, and the Biological Assessment/Biological Evaluation and Appraisal of Management Indicator Species).
9. This action does not constitute, nor will it lead to any violation of any Federal, State or local law, ordinance or requirement imposed for the protection of the human or natural environment.

Findings Under the National Forest Management Act of 1976 (NFMA)

The Thunder Basin National Grassland Land and Resource Management Plan 2002, (Grassland Plan) was reviewed.

By this review, I have determined that this decision is consistent with the Grassland Plan. The action that will occur complies fully with the goals of the LRMP and the Management Area Direction, including that contained under the Highlight Bill Geographic Area, Management Area 6.1 Rangeland with Broad Resource Emphasis, 8.4 Mineral Production and Development, and the Forest-wide standards and guidelines.

The project is consistent and compatible with the management prescriptions, goals and objectives for the desired conditions of the NFS lands described in the plan. The decided action (Alternative 2, Proposed Action) complies fully with the Grassland Plan.

Findings Required By Other Laws

Floodplains, wetlands, prime lands, threatened and endangered plant and animal species, global warming, minerals, cultural resources, consumers, civil rights, women, minority groups, and other environmental factors have been considered and will not be adversely affected.

The decision complies and is consistent with the:

Endangered Species Act of December 28, 1973 (87 Stat. 884) P.L. 93-205, as amended. The Biological Assessment/Biological Evaluation documents that the Wildlife Biologist has concluded that the planned transmission line development project would have no effect on any Threatened or Endangered species. The Wildlife Biologist has also concluded that the planned action would not likely jeopardize the continued existence or adversely modify proposed critical habitat.

Executive Order 11990 - Protection of Wetland 42 FR 26961 (signed May 25, 1977), and Executive Order 11988 - Floodplain Management 42 FR 26951, (signed May 25, 1977). The Forest Service has evaluated the planned action in accordance with these Executive Orders and the decided action has been found to be in compliance with those orders. No wetlands or floodplains will be impacted.

National Historic Preservation Act of October 15, 1966 (80 Stat. 915) P.L. 89-665, as amended, & Archeological Resources Protection Act of October 31, 1979 (93 Stat. 721) P.L. 96-95, as amended. A Heritage resource inventory and report have been completed for the Federal lands in the project area. The Wyoming State Historic Preservation Officer has concurred with the Forest Service determination that the project will have no effects on cultural resources.

Clean Water Act (Federal Water Pollution Control Act) of June 30, 1948, (62 Stat II 55) P.L. 80-845, as amended by the Water Quality Act of 1987 (Act of February 4, 1987, P.L. 100-4) and other laws.

Mineral Leasing Act of February 25, 1920, (41 Stat. 437, as amended, (41 Stat. 437); P.L. 66-146,; 30 USC 181

Decision Appeal Provisions

Pursuant to 36 CFR 215.7, this decision is subject to appeal by those persons who provided comments or otherwise expressed an interest in this proposal and commented during and prior to the close of the EA public comment period. Any written notice of the appeal of this decision

must be fully consistent with 36 CFR 215.14, "Content of an Appeal", including the reasons for the appeal, and must be filed no later than 45 days beginning the day after the Legal Notice of this decision is published in the *Laramie Boomerang*.

An appeal must be filed with the United States Department of Agriculture, Forest Service, Region 2 – Rocky Mountain Region, P.O. Box 25127, Lakewood, Colorado 80225-0127, ATTN: Appeal Deciding Officer. Only issues that were previously raised by the appellant in comments submitted during the comment period may be raised on appeal.

If no appeals are received, this project may be implemented on, but not before, five (5) business days after the close of the appeal period. If an appeal is filed, implementation of this decision will not occur until 15 days after the day following the date of appeal disposition.

Contact Person(s)

The record of the environmental effects analysis process and project file are available for public review at the Douglas Ranger District Office. For further information about this decision and the analysis process that preceded it, contact Ted Cook, Land Use Authorization Specialist, 2250 East Richards Street, Douglas, Wyoming, 82633, or telephone (307) 358-4690, email: tcook@fs.fed.us

Responsible Official:

/ *Mary H. Peterson* /

November 7, 2003

Mary H. Peterson
Forest Supervisor

Date:

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